

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:95-CR-149-5H

No. 5:12-CV-414-H

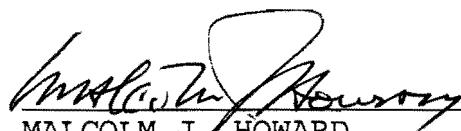
JAMES KEITH BRYANT,)
Petitioner,)
v.) ORDER
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the court on petitioner's motion to vacate his conviction based upon the Fourth Circuit's decision in United States v. Simmons, 649 F.3d 237 (4th Cir. 2011). A cursory review of defendant's motion suggests to the court that petitioner was neither convicted of an offense to which Simmons applies nor subjected to an enhanced sentence based upon his prior criminal convictions. Pursuant to this court's Standing Order, 11-S0-3, the Federal Public Defender was appointed to represent petitioner in order to determine whether petitioner may qualify for post-conviction relief pursuant to Simmons.

Accordingly, the court DIRECTS the Federal Public Defender to review this matter and to show cause, if any, within thirty (30) days why petitioner's motion should not be dismissed for failure to state a claim upon which relief can be granted. The

clerk is directed to serve a copy of this order upon the Federal Public Defender.

This 10th day of August 2012.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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